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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sutter)

In re D.K., a Person Coming Under the
Juvenile Court Law.

C046628

SUTTER COUNTY HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

(Super. Ct. No.
DPSQ035936)

v.

CHASITY K. et al.,

Defendants and Appellants.

Chasity K., the mother of the minor, and Octavia K., the grandmother of the minor, each appeal from an order of the juvenile court terminating the parental rights of Chasity. (Welf. & Inst. Code, §§ 366.26, 395.)¹ Chasity contends the order terminating parental rights must be reversed because the Sutter County Human Services Agency (HSA) failed to make

¹ All further statutory references are to the Welfare and Institutions Code.

sufficient efforts to locate Chasity and provide her with proper notice of the jurisdiction and disposition hearings. Octavia joins in that argument. We shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On October 22, 2003, HSA filed an original juvenile dependency petition pursuant to section 300 on behalf of the one-year-old minor. That petition alleged the whereabouts of Chasity were unknown.² Thereafter, Chasity was absent from the detention, jurisdiction, and disposition hearings. HSA made efforts to locate Chasity. The juvenile court sustained the petition and adjudged the minor a dependent child of the court.

Prior to the section 366.26 hearing, Chasity learned of the dependency proceedings, and the juvenile court appointed counsel to represent her. Thereafter, Chasity filed a petition for modification, seeking reunification services. That petition did not allege a lack of notice of previous hearings.

Chasity appeared at the April 8, 2004, section 366.26 hearing. Chasity testified she had learned of the dependency proceedings sometime in early 2004. Counsel for Chasity asked the juvenile court to order reunification services for her. The court declined to do so, denying the petition for modification. Thereafter, counsel for Chasity asked the court to order a guardianship of the minor. At the conclusion of the hearing,

² Chasity's name also is spelled "Chasitey" in the record.

the court found it likely the minor would be adopted and terminated Chasity's parental rights.

DISCUSSION

Chasity contends she "was not provided with legal notice of any of the proceedings related to the minor, and [HSA] failed to exercise reasonable means of locating her." According to Chasity, she is entitled to raise such a claim in an appeal from an order terminating parental rights.

Octavia has sought to join in and adopt Chasity's arguments. She cannot do so here. The reason is that Octavia has failed to show *how* any action or nonaction of HSA has affected her rights. Accordingly, Octavia lacks standing to raise the issues tendered by Chasity. (Cf. *In re Frank L.* (2000) 81 Cal.App.4th 700, 703.)

The difficulty with Chasity's claim in this case is that the record does not reveal counsel for Chasity, or Chasity herself, ever tendered in the juvenile court any issue pertaining to an alleged lack of notice of any of the dependency proceedings. The record reflects Chasity had ample opportunities to bring that issue to the attention of the juvenile court if she had wished to do so. Yet she failed to avail herself of that opportunity. Moreover, Chasity did not request a continuance of the section 366.26 hearing, at which she was present, because of alleged notice problems.

The California Supreme Court has stated, ""An appellate court will ordinarily not consider procedural defects or erroneous rulings, in connection with relief sought or defenses

asserted, where an objection could have been, but was not, presented to the lower court by some appropriate method The circumstances may involve such intentional acts or acquiescence as to be appropriately classified under the headings of estoppel or waiver Often, however, the explanation is simply that it is *unfair to the trial judge and to the adverse party* to take advantage of an error on appeal when it could easily have been corrected at the trial.”

(*Doers v. Golden Gate Bridge etc. Dist.* (1979) 23 Cal.3d 180, 184-185, fn. 1 [151 Cal.Rptr. 837, 588 P.2d 1261], italics in *Doers*.) “The purpose of the general doctrine of waiver is to encourage a defendant to bring errors to the attention of the trial court, so that they may be corrected or avoided and a fair trial had” (*People v. Walker* (1991) 54 Cal.3d 1013, 1023 [1 Cal.Rptr.2d 902, 819 P.2d 861].) “No procedural principle is more familiar to this Court than that a constitutional right,” or a right of any other sort, “may be forfeited in criminal as well as civil cases by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it.” [Citation.]’ [Citation.]” (*People v. Saunders* (1993) 5 Cal.4th 580, 589-590; cf. *In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. 2 [stating that the correct legal term for loss of right based on failure to assert it in a timely fashion is forfeiture, not waiver].)

In support of her claim, Chasity cites *Ansley v. Superior Court* (1986) 185 Cal.App.3d 477, 483 for the proposition that where a parent establishes a lack of notice, a defect in

jurisdiction exists, rendering any resulting judgment void. That case is distinguishable from the circumstances present in this case. In *Ansley*, unlike here, the parent had attacked the court's jurisdiction in a petition for modification. (*Id.* at pp. 482-483.) By contrast, in this case Chasity's petition made no mention of any alleged notice or other jurisdictional problems.

Here, as the record shows, at no time did Chasity tender any claim pertaining to any difficulty with notice of the dependency proceedings. Thus, Chasity is precluded from raising the claim here. (*In re Erik P.* (2002) 104 Cal.App.4th 395, 403; *In re Dakota S.* (2000) 85 Cal.App.4th 494, 501-502; *In re Gilberto M.* (1992) 6 Cal.App.4th 1194, 1198-1200.) Chasity has forfeited her claim. (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293, fn. 2.)

DISPOSITION

The order terminating parental rights is affirmed.

RAYE, J.

We concur:

SCOTLAND, P.J.

NICHOLSON, J.